

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**GARDNER BRADLEY,**

**Plaintiff,**

**v.**

**2:07 CV 68  
(Maxwell)**

**FEDERAL BUREAU OF PRISONS,**

**Defendant.**

**ORDER**

It will be recalled that on August 28, 2007, *pro se* Plaintiff Gardner Bradley, an inmate at USP Hazelton in Bruceton Mills, West Virginia, instituted the above-styled civil action by filing a Freedom of Information Act complaint against individuals working for the above-named Defendant.

It will further be recalled that the case was referred to United States Magistrate Judge John S. Kaull for preliminary review.

On June 23, 2008, United States Magistrate Judge John S. Kaull issued a Report And Recommendation/Opinion wherein he recommended that the Defendant's Motion To Dismiss Or In The Alternative Motion For Summary Judgment be granted and that the Plaintiff's Complaint be dismissed without prejudice.

In his Report And Recommendation/Opinion, Magistrate Judge Kaull provided the parties with ten (10) days from the date of service of said Report And Recommendation/Opinion in which to file objections thereto and advised the parties that a failure to timely file objections would result in the waiver of their right to appeal from a judgment of this Court based upon said Report And Recommendation/Opinion.

The Court's review of the docket in the above-styled action has revealed that no objections to Magistrate Judge Kaull's June 23, 2008, Report And Recommendation/Opinion

have been filed and that this matter is now ripe for review.

Upon consideration of Magistrate Judge Kaull's June 23, 2008, Report And Recommendation/Opinion, and having received no written objections thereto<sup>1</sup>, it is

**ORDERED** that the Report And Recommendation/Opinion entered by United States Magistrate Judge John S. Kaull on July 23, 2008 (Docket No. 34), be, and the same is hereby, **ACCEPTED** in whole and the above-styled civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

**ORDERED** that the Defendant's Motion To Dismiss Or In The Alternative Motion For Summary Judgment (Docket No. 21) be, and the same is hereby, **GRANTED**. It is further

**ORDERED** that the Plaintiff's Complaint (Docket No. 1) be, and the same is hereby, **DISMISSED** without prejudice. It is further

**ORDERED** that, in light of the dismissal of the Plaintiff's Complaint, the following Motions be, and the same are hereby, **DENIED** as moot:

1. Petitioner's Motion Pursuant FRCP - Rule 13. Counter Claim And Federal Rules Of Evidence - Rule 1004(2) (Docket No. 26);
2. Petitioner's Motion Pursuant FRCP To Amend The Original Complaint (Docket No. 27);
3. Petitioner's Petition Pursuant [To] The Constitutional Statute For Fast And Speedy Tribunal (Docket No. 30); and
4. Petitioner's Motion Pursuant FRCP For Civil Action To Be Placed Upon The Active Court Docket For Trial By Jury And Pre-trial Hearings For Discovery

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<sup>1</sup>The failure of a party to file an objection to a Report And Recommendation waives the party's right to appeal from a judgment of this Court based thereon and, additionally, relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4<sup>th</sup> Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

(Docket No. 32).

It is further

**ORDERED** that the Clerk of Court shall enter judgment for the Defendant. It is further

**ORDERED** that, should the Plaintiff desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, the Plaintiff may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed *in forma pauperis* from the United States Court of Appeals for the Fourth Circuit.

The Clerk of Court is directed to transmit copies of this Order to the *pro se* Plaintiff and to counsel of record for the Defendant.

**ENTER:** July 25, 2008

**/S/ Robert E. Maxwell**  
United States District Judge